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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT TACOMA

8 UNITED STATES OF AMERICA,

CASE NO. C18-5189 BHS

9 Plaintiff,

ORDER

v.

10 THOMAS WEATHERS, et al.,,

11 Defendant.  
12

13 THIS MATTER is before the Court on plaintiff United States' motion for  
14 summary judgment, Dkt. 310. The United States seeks a determination as a matter of law  
15 that intervening plaintiff Daystar Development, LLC, is defendant T&K Weathers  
16 Limited Partnership's alter ego, and that Daystar's purported purchase of T&K's debt to  
17 defendant Wapiti Ventures, secured by Wapiti's superior lien on the subject Properties,  
18 was fraudulent. It seeks a determination that Daystar is barred from foreclosing on the  
19 lien it purchased, leaving the United States' tax liens in senior position.

20 Daystar cross-moves for summary judgment on its claim that its purchase was for  
21 value and is valid, and that it now holds the senior lien. It also argues that T&K is in  
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1 default on its repayment obligations, and seeks summary judgment that it is entitled to  
2 foreclose on its superior interest in the Properties. Dkt. 321.

3 The government's reply points out that T&K has not appeared or answered, and  
4 argues that Daystar's summary judgment motion is therefore procedurally improper;  
5 Daystar's correct course would be to seek a default judgment. Dkt. 323 at 3 (citing  
6 *United States v. Spear*, No. 2:22-CV-00439-BLW, 2023 WL 6463039, at \*4 (D. Idaho  
7 Oct. 4, 2023) (seeking default judgment under Rule 55 is the proper procedure to obtain  
8 judgment against a party that has not answered a complaint) (citing cases). But it argues  
9 that Daystar is not entitled to judgment in any event because it is effectively T&K, and  
10 the Court has already determined that T&K is the alter ego of Tom and Kathy Weathers,  
11 the defendants who owe the income taxes leading to the government's tax liens. *Id.*

12 The case has been pending for seven years, and has already been through a trial  
13 and two appeals. There is another trial scheduled for October 7, 2025, on Daystar's  
14 foreclosure claim, and on the government's related "nominee," "alter ego," and  
15 "fraudulent assignee" affirmative defenses.

16 The Court has reviewed the voluminous record and briefing. The government has  
17 not established that Daystar's purchase of T&K's debt and Wapiti's senior security  
18 interest was fraudulent, that Daystar is not an assignee for value, or that Daystar is  
19 T&K's alter ego or nominee, and it is not entitled to judgment as a matter of law. The  
20 government asserts that Daystar is T&K's alter ego, and that it is therefore Tom and  
21 Kathy Weathers' alter ego, and that Daystar's purchase was effectively a discharge of  
22 T&K's debt, not an assignment of a loan for value. This assertion is not supported by the

1 evidence the government has thoroughly compiled and cataloged. It specifically does not  
2 establish that Brian Weathers “controls” Daystar; all the evidence is to the contrary. The  
3 government’s summary judgment motion, Dkt. 310, is **DENIED**.

4 Daystar’s cross-motion for a determination as a matter of law that it is not T&K’s  
5 alter ego or nominee, that it purchased for value, that its lien is valid, and that its interest  
6 is superior to the government’s tax liens, is **GRANTED**.

7 The Court agrees that a cross motion for summary judgment is not the proper way  
8 to obtain a judgment and order of foreclosure against the non-appearing and non-  
9 answering debtor, T&K. The proper course is a motion for default and for default  
10 judgment. Daystar’s summary judgment motion on its foreclosure claim (and the disputed  
11 “math” associated with it) is therefore **DENIED** without prejudice. These remaining  
12 issues can be decided as a matter of law. The trial date and associated deadlines are  
13 therefore **STRICKEN**.

14 Daystar should file a motion consistent with this Order, giving the government  
15 ample opportunity to dispute the amount of the debt secured by Daystar’s superior lien.  
16 **IT IS SO ORDERED.**

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18 Dated this 28th day of August, 2025.

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21 BENJAMIN H. SETTLE  
22 United States District Judge